
Public Utilities Commission of the State of California

Public Agenda 3137

Thursday, August 19, 2004 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Susan P. Kennedy

Loretta M. Lynch

Carl W. Wood

For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings 505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <i>Closed to the Public</i>	<i>Commission Meeting</i> Auditorium (10 a.m.) <i>Open to the Public</i>
Monday, August 16, 2004 (San Francisco)	Thursday, August 19, 2004 (San Francisco)
Monday, August 30, 2004 (San Francisco)	Thursday, September 02, 2004 (San Francisco)
Monday, September 20, 2004 (San Francisco)	Thursday, September 23, 2004 (San Francisco)
Monday, October 04, 2004 (San Francisco)	Thursday, October 07, 2004 (San Francisco)

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

Matters of Public Interest

For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.

For further information contact the Public Advisor
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PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda.
- 11, 39, 48, 82

Public Comment:

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Consent Agenda - Orders and Resolutions

1 Res TL - 19046

[3573] Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.

2 Res ALJ 176-3137

[3574] Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

3 R02-06-041 - Order Instituting Rulemaking to require California natural gas and electric utilities to preserve interstate pipeline capacity to California.

[3552] This decision denies the motion to accept a late-filed notice of intent (NOI) to claim compensation by The Utility Reform Network (TURN) and denies the concurrent request for an award of \$45,656.66 in intervenor compensation in connection with D02-07-037 and D03-04-061 and D04-01-047.

TURN did not file its NOI until after this proceeding was closed and more than 17 months after the due date for the NOI. This proceeding is closed.

(Comr Lynch - ALJ Brown)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

Agenda 3135, Item 9 6/9/2004 (Staff);

Agenda 3136, Item 4 7/8/2004 (Kennedy)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175500

Consent Agenda - Orders and Resolutions (continued)

4
[3591] **R02-10-001 - Order Instituting Rulemaking on the establishment of a public purpose program surcharge pursuant to Assembly Bill (AB) 1002.**

This decision implements Assembly Bill 1002, establishing a natural gas surcharge to fund public purpose programs. The decision finds that the surcharge is a tax, and not a fee, and addresses matters including customer exemptions, formulas for calculating surcharge rates, accrual of interest on surcharge revenues, and accounting matters. The decision approves, subject to modifications, Pacific Gas and Electric Company's Advice Letter 2440-G, identifying surcharge balancing accounts. This decision also initiates a public interest research and development (R&D) program for gas that appoints the California Energy Commission as administrator, establishes criteria for R&D projects, and sets R&D funding at an initial amount of \$12 million for 2004, with the potential for R&D budget increases in later years. This proceeding is closed.

(Comr Lynch - ALJ DeBerry)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

Agenda 3136, Item 52 7/8/2004 (Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175899

5
[3593] **I00-08-002 - Order Instituting Investigation into the functioning of the wholesale electric market and associated impact on retail rates.**

This decision closes this proceeding.

(Comr Wood - ALJ Wetzell)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3136, Item 7 7/8/2004 (Staff)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175520

6
[3651] **A04-04-033 - Econodial, LLC (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide resold and limited facilities-based local exchange telecommunications services within California. This proceeding is closed.

(Comr Kennedy - ALJ Galvin)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3136, Item 22 7/8/2004 (Staff)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=173533

Consent Agenda - Orders and Resolutions (continued)

- 7**
[3663] **A04-03-033 - California Water Service Company (Cal Water).**
This decision authorizes Cal Water to issue \$250 million of common shares, preferred shares or debt securities. Debt issues of \$20 million or less are exempted from the Competitive Bidding Rule. This proceeding is closed.
(Exam Jackson)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
Agenda 3136, Item 27 7/8/2004 (Staff)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=171644
- 8**
[3698] **Res TL-19045**
This resolution authorizes designated employees of the Consumer Protection and Safety Division to exercise the powers of arrest of a peace officer and the power to serve warrants pursuant to Penal Code §830.11 and Public Utilities Code §308.5.
Agenda 3136, Item 46 7/8/2004 (Kennedy)
- 9**
[3713] **A04-02-030 - PacifiCorp and 2677588 Washington LLC.**
This order authorizes PacifiCorp to sell and transfer its interest in the Skookumchuck dam in the State of Washington to a subsidiary of TransAlta Corporation (TransAlta). The sole purpose of the Skookumchuck dam is to meet cooling water requirements of the nearby Centralia Steam Electric Generating Plant (Centralia Power Plant), which with Commission approval was purchased four years ago by a subsidiary of TransAlta. The Centralia Power Plant serves customers in the State of Washington. Energy customers of PacifiCorp in California (representing about 2% of PacifiCorp's business) are expected to benefit from the sale in that income from the dam operations is minimal and the application forecasts a \$200,000 reduction in California revenue requirements. PacifiCorp will receive its net book value of the assets being transferred, with no appreciable gain or loss. This proceeding is closed.
(Comr Kennedy - ALJ Walker)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 10**
[3716] **A02-04-037 - City of Bakersfield.**
A02-04-038, A02-04-039, A02-04-040 - Related matters. This decision authorizes the City of Bakersfield to construct at-grade railroad crossings over the tracks of the Union Pacific Railroad at Akers Road, Harris Road, Mountain Vista Drive, and Old River Road. A02-04-037, A02-04-038, A02-04-039, and A02-04-040 are closed.
(Comr Peevey - ALJ Koss)
Pub. Util. Code § 311 -- This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175577

Consent Agenda - Orders and Resolutions (continued)

- 11**
[3717] **I99-10-024 - Investigation of USP&C to determine whether it has violated Public Utilities Code Section 2889.9 by failing to provide Commission staff with requested information and whether the Commission should order California telephone companies to cease providing billing and collection services to USP&C.**
This decision finds that no further Commission proceedings are required against respondents at this time. This proceeding is closed.
(Comr Brown - ALJ Bushey)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.
- 12**
[3719] **Res T-16848 - SBC California (SBC).**
This resolution approves SBC's request to revise its Schedule Cal. P.U.C. No.A-8, to grandfather Intra-Building Network Cable Service Agreements due to the transitioning to a new billing system that will be unable to support annual mailings and tracking of this service. (Advice Letter 25024, filed May 24, 2004)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175978
- 13**
[3720] **A04-03-010 - City of Sacramento.**
This decision grants the City of Sacramento's request to construct an overhead grade separation of the Union Pacific Railroad track at Main Avenue in the City and County of Sacramento. This proceeding is closed.
(Exam Clark)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=173915
- 14**
[3721] **Res T-16845 - INFO LINE of San Diego County, Inc. (INFO LINE).**
This resolution grants the application of INFO LINE to use the 2-1-1 dialing code for health and human services information and referral service in San Diego County.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176438
- 15**
[3723] **A03-11-021 - Pacific Gas and Electric Company (PG&E).**
This decision dismisses the unopposed application of PG&E for authority to sublease available land under Pub. Util. Code §851. The decision deems the arrangement between PG&E and Fisher Nickel, Inc. for Fisher Nickel, Inc. to occupy the Food Service Technology Center, from September 2002 through February 26, 2004, to be a license authorized by General Order 69-C. This proceeding is closed.
(Comr Kennedy - ALJ Econome)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Consent Agenda - Orders and Resolutions (continued)

- 16** **A04-01-023 - Preferred Long Distance (Applicant).**
[3725] This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and limited facilities-based interexchange telecommunications services. Applicant was previously authorized to resell interexchange services. This proceeding is closed.
(Comr Kennedy - ALJ O'Donnell)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 17** **A04-05-006 - SureWest Communications.**
[3726] This decision grants authority pursuant to Pub. Util. Code §854(a) for SureWest Communications, the parent company of SureWest Telephone, to change its state of incorporation from California to Delaware. This proceeding is closed.
(Comr Kennedy - ALJ Kenney)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 18** **A03-12-010 - San Diego Gas & Electric Company (SDG&E).**
[3727] This decision finds SDG&E's administration of power purchase agreements and procurement of least-cost dispatch power activities for the period beginning January 1, 2003 and ending September 30, 2003 were reasonable and prudent. The decision also finds SDG&E's \$83.3 million energy resource recovery account and overcollected balance at September 30, 2003 was reasonable and prudent. This proceeding is closed.
(Comr Peevey - ALJ Galvin)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174491
- 19** **A02-11-027 - Comm South Companies, Inc. and Arbros Communications, Inc.**
[3728] This decision grants prospective authority pursuant to Pub. Util. Code Section 854(a) for the transfer of control described in A02-11-027. The request for retroactive authority is denied. This decision also orders Comm South Companies, Inc. to pay a fine of \$5,000 for violating Section 854. Finally, this decision orders an affiliate of the Applicants to submit a compliance filing that discloses whether the affiliate discontinued service in California without Commission authorization.
(Comr Brown - ALJ Kenney)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Consent Agenda - Orders and Resolutions (continued)**20**
[3729] **R01-08-028 - Order Instituting Rulemaking to examine the Commission's future energy efficiency policies, administration, and programs.**

R01-10-024 - Related matters. This order denies a petition to modify D03-12-060 and D04-02-059 filed on March 25, 2004, by Pacific Gas and Electric Company (PG&E) in the Commission's energy efficiency docket, R01-08-028. It also denies a substantively identical petition to modify D03-12-062 filed on March 25, 2004, by PG&E in the Commission's electricity procurement rulemaking, R01-10-024.

(Comr Kennedy, Comr Peevey - ALJ Malcolm, ALJ Walwyn)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

21
[3731] **Res T-16855 - Verizon California, Inc. (Verizon).**

This resolution directs Verizon to file an application to request clarification of Finding of Fact (FOF) 3 in D96-10-037 and FOF 15 in D02-10-040 as to whether developers making contributions in aid of construction are entitled to refunds of over-collected federal taxes they paid to telecommunications utilities calculated pursuant to "Method 5" for the period from September 12, 2001 to September 11, 2003. (Advice Letter 10584, filed August 12, 2003)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176735

22
[3735] **Res T-16860 - Comcast Phone of California, LLC (Comcast).**

This resolution approves Comcast's request to withdraw basic telephone service in the Mission Hub facility located in the Southeast section of San Francisco, California. (Advice Letter 81, filed May 19, 2004)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176530

23
[3736] **A99-12-025 - Valencia Water Company.**

For approval of its updated Water Management Program as ordered in Commission Resolution W-4154 dated August 5, 1999. This decision awards The Angeles Chapter of Sierra Club \$4,074.18 for its contribution to D01-11-048 and D03-10-063. This proceeding is closed.

(Comr Brown - ALJ Patrick)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Consent Agenda - Orders and Resolutions (continued)

- 24** **A04-02-028 - Southern California Edison Company (SCE).**
[3737] This decision approves with modifications SCE's petition to modify Resolution E-3843. This proceeding is closed.
 (Exam Clanon)
 Pub. Util. Code § 311 – This item was mailed for Public Comment.
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176903
- 25** **R03-02-035 - Rulemaking for the purpose of amending General Order 156.**
[3739] This decision awards the Greenlining Institute \$31,450.44 in compensation for its substantial contribution to P02-10-035 and D03-11-024. This proceeding is closed.
 (Comr Peevey - ALJ Econome)
 Pub. Util. Code § 311 – This item was mailed for Public Comment.
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.
- 26** **A04-04-034 - Esodus Communications, Inc. dba INSTATONE (Applicant).**
[3740] This decision grants Applicant a certificate of public convenience and necessity to provide resold local exchange telecommunications services within California. This proceeding is closed.
 (Comr Kennedy - ALJ Galvin)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 27** **A03-02-010 - San Jose Water Company (SJW).**
[3741] This decision modifies D03-07-013 to permit SJW to issue a letter of credit in lieu of a security interest in its assets to the Department of Water Resources to support a \$2,477,000 Safe Drinking Water State Revolving Fund loan contract. This proceeding is closed.
 (Comr Lynch - ALJ Galvin)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 28** **I01-12-008 - Investigation into the operations and practices of companies affiliated with Enron Corporation, relating to the filing for Chapter 11 bankruptcy of Enron Corp. and its affiliated entities.**
[3742] This decision finds that because the Commission has canceled the registrations of all Enron Energy Service Providers and because billing disputes for direct access customers have been addressed in other forums, this proceeding should be closed. Issues concerning market manipulation and financial improprieties were not part of this investigation. This investigation is closed.
 (Comr Wood - ALJ Barnett)
 Pub. Util. Code § 311 – This item was mailed for Public Comment.
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Consent Agenda - Orders and Resolutions (continued)

- 29**
[3747] **A02-11-056 - IP Communications Corporation.**
IP Communications Corporation requests revocation of its certificate of public convenience and necessity. This request was accomplished in a separate Commission resolution. This decision closes the application as moot.
(Exam Leutza)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176979
- 30**
[3752] **Res T-16844 - Volunteer Center of Riverside County (VCRC).**
This resolution grants the application of VCRC to use the 2-1-1 dialing code for health and human services information and referral service in Riverside County.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177020
- 31**
[3753] **I02-04-026 - Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan for Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.**
This decision awards compensation for substantial contributions to D03-12-035 to the following intervenors: Aglet Consumer Alliance in the amount of \$127,147.34; California Hydropower Reform Coalition in the amount of \$255,971.28; Consumers Union of U.S., Inc. in the amount of \$33,465.40; Greenlining Institute in the amount of \$96,577.01; and The Utility Reform Network in the amount of \$866,884.22.
(Comr Peevey - ALJ Cooke)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 32**
[3754] **Res T-16861 - SBC California (SBC).**
This resolution approves an Interconnection Agreement between SBC and California RSA No. 3 Limited Partnership, dba Golden State Cellular, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 25089, filed June 10, 2004)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177223
- 33**
[3755] **Res T-16862 - SBC California (SBC).**
This resolution approves an Interconnection Agreement between SBC and Trans National Communications International, Inc. in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 25096, filed June 14, 2004)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177224

Consent Agenda - Orders and Resolutions (continued)

- 34**
[3756] **Res T-16859 - Verizon California, Inc. (Verizon).**
This resolution approves an Interconnection Agreement between Verizon and Think 12 Corporation, dba Hello Depot, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 10875, filed May 26, 2004)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177220
- 35**
[3758] **A04-02-010 - County of Placer.**
This decision grants the request of the Department of Public Works, County of Placer to construct a grade-separated highway-rail crossing, Bickford Ranch Road, using the overburden of Union Pacific Railroad Company's Clark Tunnel in Placer County. This proceeding is closed.
(Exam Clark)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175184
- 36**
[3759] **A03-04-034 - City of Long Beach.**
This decision grants the request of City of Long Beach to construct an at-grade pedestrian-rail crossing on Long Beach Boulevard at 12th Street across the northbound and southbound light rail transit tracks of Los Angeles County Metropolitan Transportation Authority's Los Angeles to Long Beach Metro Blue Line in Long Beach, Los Angeles County. This proceeding is closed.
(Exam Clark)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176571
- 37**
[3760] **A04-04-042 - San Diego Gas & Electric Company (SDG&E).**
This decision grants SDG&E's application for authority to enter into a new electric resource contract with San Diego County Water Authority and adopt proposed cost recovery and ratemaking mechanism. This proceeding is closed.
(Comr Peevey - ALJ Brown)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 38**
[3761] **Res W-4485 - Little Bear Water Company, Inc. (LBWC).**
This resolution authorizes LBWC a surcharge to recover an increase in water testing costs producing an increase in annual revenue of \$5,515 or 1.49%. (Advice Letter 43, filed July 2, 2004)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176900

Consent Agenda - Orders and Resolutions (continued)

- 39** **I03-10-038 - Investigation on the Commission's own motion into the operations and practices**
[3762] **of the Conlin-Strawberry Water Co. Inc., and its owner/operator, Danny T. Conlin; Notice of**
Opportunity for Hearing; and Order to Show Cause why the Commission should not petition
the Superior Court for a receiver to assume possession and operation of the
Conlin-Strawberry Water Co. Inc. pursuant to the California Public Utilities Code Section
855.

This decision extends the 12-month statutory deadline pursuant to Public Utilities Code Section 1701.2(d) until further order.

(Comr Brown - ALJ Thorson)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.

- 40** **A04-04-017 - City of Roseville.**
[3763] This decision grants an extension of the City of Roseville's stationary horn warning system at Yosemite Street and Tiger Way, until the Federal Train Horn Rule goes into effect, in the City of Roseville, Placer County. This proceeding is closed.

(Exam Clark)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177194

- 41** **A99-04-048 - Pacific Gas and Electric Company (PG&E).**
[3765] PG&E seeks to change the terms of its sole-customer facilities sales contract to improve the protections to PG&E and ratepayers and reduce costs. The Petition is granted. This proceeding is closed.

(Comr Kennedy - ALJ Barnett)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

- 42** **Res W-4486 - Toro Water Service, Inc. (Toro).**
[3766] This resolution authorizes Toro to add a surcharge to recover an increase in water testing costs producing an increase in annual revenue of \$7,572 or 2.38%. (Advice Letter 55, filed May 13, 2004)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175257

- 43** **A04-03-036 - Southern California Edison Company (Edison).**
[3768] This decision approves a settlement resolving litigation between Edison and Inland Paperboard and Packaging, Inc. (Inland). The settlement reflects a fair compromise of contentious litigation between Edison and Inland. This proceeding is closed.

(Comr Peevey - ALJ DeBerry)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Consent Agenda - Orders and Resolutions (continued)

- 44** **A04-05-025 - Parivash Hafezizadeh, dba Atlas Transportation (Applicant).**
[3772] This decision authorizes Applicant to operate as an on-call passenger stage corporation between points in Orange County and John Wayne Airport. This proceeding is closed.
 (Exam Clark)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177539
- 45** **A04-05-029 - Sea Planes, Incorporated (Applicant).**
[3773] This decision authorizes Applicant to extend its vessel common carrier service to include the transportation of passengers and their baggage between the mainland point of Marina del Rey and Two Harbors on Santa Catalina Island, and between Two Harbors and the City of Avalon, also on Santa Catalina Island. This proceeding is closed.
 (Exam Clark)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177538
- 46** **A04-05-040 - Rajinder Randhawa, dba American Shuttle Express, and Monika Latigue.**
[3774] This decision authorizes Rajinder Randhawa to transfer his passenger stage corporation certificate to Monika Latigue. This proceeding is closed.
 (Exam Clark)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177540
- 47** **Res W-4487 - Alisal Water Corporation.**
[3775] This resolution recognizes Dean J. Evans as the state court-appointed receiver of ALCO Water Service's system.
- 48** **(ECP) C04-04-013 - Ronald E. and Linda L. Scarberry (Complainants) vs. Pacific Gas and Electric Company (PG&E).**
[3776] The Commission denies the request of Complainants, that PG&E be ordered to underground its overhead electric facilities that were relocated as part of a street widening project. If undergrounding is desired, then an underground district should be created pursuant to PG&E's Electric Tariff Rule 20 - Replacement of Overhead with Underground Electric Facilities. This proceeding is closed.
 (Comr Brown - ALJ Patrick)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.

Consent Agenda - Orders and Resolutions (continued)

- 49** **A04-05-009 - Eagle Broadband (Applicant).**
[3777] This decision grants Applicant a certificate of public convenience and necessity for authority to provide limited facilities-based and resold local exchange and interexchange telecommunications services. This proceeding is closed.
 (Comr Kennedy - ALJ Prestidge)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 50** **Res W-4488 - Great Oaks Water Company (GOWC).**
[3778] This resolution authorizes GOWC an increase in annual revenue of \$404,184 or 3.75% to offset an increase in pump tax. (Advice Letter 162-W, filed June 1, 2004)
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174152
- 51** **Res T-16869 - Cox California Telcom, LLC dba Cox Communications (Cox).**
[3780] This resolution approves Cox's request to withdraw basic telephone service in the Laguna Hills facility located at 25212 Stockport Drive, California. (Advice Letter 199, filed July 16, 2004)
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177574
- 52** **Res W-4489 - California Water Service Company (Cal Water).**
[3781] This resolution authorizes Cal Water a 6-month extension of time, requested on behalf of customer Joseph Farais, to submit a building permit to retain his water service connection in Cal Water's Coast Springs Water System. (Advice Letter 1673, filed June 18, 2004)
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177628
- 53** **Res W-4490 - Central Camp Water Company, Inc. (CCWC).**
[3782] This resolution grants CCWC the authority to impose a surcharge to repay a \$12,000 short-term loan, the proceeds of which will be used to complete and bring into operation an additional well authorized by Resolution W-4118. (Advice Letter 15, filed July 14, 2004)
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175191
- 54** **Res W-4491 - Alco Water Service, Salinas District.**
[3783] This resolution authorizes Alco Water Service, Salinas District to add a surcharge to recover an increase in water testing costs producing an increase in annual revenue of \$67,479.13 or 1.76%. (Advice Letter 97, filed May 4, 2004)
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177440

Consent Agenda - Orders and Resolutions (continued)

- 55** **A04-05-015 - Del Oro Water Company, Inc. (DOWC).**
[3787] This decision grants DOWC the authority to borrow up to \$100,000 for improvements in its Country Estates District. The authority to recover costs at this time through a rate base offset is denied without prejudice. This proceeding is closed.
 (Exam Jackson)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 56** **R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and Decision 01-09-060.**
[3788] This decision grants the Petition to Modify D03-05-034 filed by SBC Services, Inc. on February 5, 2004. As requested, the modifications provide express directives for refunds to "continuous" Direct Access (DA) customers who paid a DA surcharge prior to December 4, 2003.
 (Comr Brown, Comr Wood - ALJ Pulsifer)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 57** **A01-06-003 - Pacific Gas & Electric Company (PG&E).**
[3791] This decision grants PG&E's petition for modification of D02-10-019 to delete Ordering Paragraph 15 relieving PG&E of the obligation to file a 2002 revenue adjustment proceeding.
 (Comr Brown - ALJ DeBerry)
 Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 58** **R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.**
[3792] I93-04-002, R95-04-043, I95-04-044 - Related matters. This decision awards the Greenlining Institute \$54,516.47 for its contribution to D02-12-081.
 (Comr Brown - ALJ Reed)
- 59** **Res W-4492 - The Sea Ranch Water Company (SRWC).**
[3795] This resolution authorizes SRWC to secure a loan in the amount of \$150,000 to be used for tank improvement. (Advice Letter (AL) 67, filed March 19, 2004 and AL 67-A, filed July 1, 2004)

Consent Agenda - Orders and Resolutions (continued)**60 R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.**
[3799]

This decision awards intervenor compensation to The Utility Reform Network (TURN) and The Natural Resources Defense Council (NRDC) for their work in the electric procurement proceeding. The decision awards \$285,191 in compensation to TURN for its contribution to D04-01-050, D03-12-065, D03-12-062, D03-10-058, Resolutions E-3814, E-3853 and participation in utility procurement review groups (PRGs) and \$37,065 to NRDC for its contribution to D04-01-050, D03-12-062, D03-06-71, D03-06-067, D02-10-062 and its participation in PRGs.
(Comr Peevey - ALJ Walwyn)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

61 A03-12-042 - M. Green and Company (MGC).
[3805]

This decision grants MGC, receiver appointed by the court, authority to transfer the Curtis Water Company system to the County of Kings pursuant to Public Utilities Code Section 851. This proceeding is closed.

(Exam Jackson)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

62 A04-05-013 - Worldwide Telecommunications, Inc. (Applicant).
[3807]

This decision grants Applicant authority to provide resold local exchange and interexchange telecommunications services. This proceeding is closed.

(Comr Kennedy - ALJ Prestidge)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

63 R _____ - Order Instituting Rulemaking on the Commission's own motion to develop a general order addressing the ratemaking practices and procedures for water utilities receiving state-financed loans or grants.
[3809]

Regular Agenda

Regular Agenda - Energy Orders

64 A99-03-039 - Pacific Gas and Electric Company (PG&E).

[3366]

This decision concludes the reasonableness review of PG&E's Safety and Reliability Enhancement Funds Balancing Account. It allows PG&E to recover a portion of the charges as provided by Pub. Util. Code §368(e). This proceeding is closed.

(Comr Kennedy - ALJ Long)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3132, Item 42 4/22/2004 (Kennedy);

Agenda 3133, Item 40 5/6/2004 (Kennedy);

Agenda 3136, Item 49 7/8/2004 (Brown)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175476

64a ALTERNATE TO ITEM 3366

[3806]

This decision resolves Pacific Gas & Electric Company's (PG&E) System Safety and Reliability Balancing Account. Pursuant to the provisions of Public Utilities Code Section 368, which was added to the Code by AB 1890, the electric industry deregulation bill, PG&E was allowed an increase in base revenues equal to the consumer price index plus 2% for the years 1997 and 1998. The additional funds thus acquired were to be spent recovering costs incurred from enhancement of system safety and reliability. The Commission approved PG&E's cost recovery plan in 1996 and laid out in detail the steps PG&E was required to follow in recording the costs in D96-12-077 and D98-12-094. PG&E seeks approval for approximately \$120 million in costs incurred pursuant to Section 368 and our prior decisions. The Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN) have filed objections. This decision allows most costs sought by PG&E. The decision disallows applications for automated meter readers and meter reader trucks as too remote and insignificant in their effects on system safety and reliability. The decision also orders PG&E to file a Catastrophic Event Memorandum Account application to seek recovery of approximately \$29 million in storm and flood-related costs included in this application. This proceeding is closed.

(Comr Brown)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177711

Regular Agenda - Energy Orders (continued)

65 A02-11-017 - Pacific Gas and Electric Company (PG&E).

[3431] For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges to gas service effective on January 1, 2003. I03-01-012, A02-09-005 - Related matters. This interim decision addresses Storm and Reliability issues raised in PG&E's Test Year 2003 General Rate Case.

(Comr Peevey - ALJ Halligan)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3133, Item 42 5/6/2004 (Wood);

Agenda 3134, Item 37 5/27/2004 (Wood);

Agenda 3136, Item 50 7/8/2004 (Brown)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=172649

65a ALTERNATE TO ITEM 3431

[3697] This alternate differs from the proposed decision in only one respect. It approves, with modifications, the Joint Proposal by PG&E/CUE for a reliability performance incentive mechanism.

(Comr Wood)

Agenda 3136, Item 50a 7/8/2004 (Brown)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175097

66 A03-01-019 - Southern California Edison Company (SCE).

[3631] For authority to lower and adjust retail electric rates for all customer classes upon completion of full recovery of procurement related obligations account. Visalia Senior Housing dba Town Meadows (Petitioner) seeks modification of D03-07-029, SCE's most recent rate allocation decision on the ground that although it received its California Alternate Rates for Energy Program (CARE) discount, its rates increased. No other customers receiving the CARE discount had a rate increase. Held: Petition denied without prejudice. Petitioner should present its issue in the current SCE rate allocation proceeding. This proceeding is closed.

(Comr Brown - ALJ Barnett)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3136, Item 14 7/8/2004 (Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175433

Regular Agenda - Energy Orders (continued)

66a ALTERNATE TO ITEM 3631

[3802]

This alternate decision adopts Visalia's request, and corrects the unintended consequence of the Procurement Related Obligations Account settlement decision (D03-07-029), which resulted in increased rates for low-income group living facilities that qualified for the CARE rate.

(Comr Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177762

67

[3645]

A02-09-043 - Pacific Gas and Electric Company (PG&E).

This decision grants a CPCN for PG&E's 230 kV Jefferson-Martin transmission project. The authorized route is a hybrid combination of the underground Route Option 1B, a portion of PG&E's proposed above ground segment, and PG&E's proposed underground segment with Route Option 4B, subject to alteration of the northern segment based on additional environmental review. This proceeding is closed.

(Comr Lynch - ALJ TerKeurst)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3136, Item 56 7/8/2004 (Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174283

67a

[3667]

ALTERNATE TO ITEM 3645

This alternate differs from the proposed decision in that it limits consideration of alternate transmission routes to routes that already have been reviewed in the Final Environmental Impact Report. In addition, the alternate decision accepts the current Commission policy regarding Electric Magnetic Fields.

(Comr Peevey)

Agenda 3136, Item 56a 7/8/2004 (Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174882

68

[3699]

R _____ - Order Instituting Rulemaking to update the Commission's policies and procedures related to electromagnetic fields emanating from regulated utility facilities.

The Commission's current policies and procedures in this area predate research findings recently submitted to the Commission by the California Department of Health Services as well as a decision of the California Supreme Court concerning the extent of the Commission's jurisdiction related to electromagnetic field issues. This proceeding will reconsider the Commission's policies and procedures in light of these events and in light of the utilities' experiences in implementing existing policy.

Agenda 3136, Item 60 7/8/2004 (Peevey)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175810

Regular Agenda - Energy Orders (continued)

68a ALTERNATE TO ITEM 3699

[3820] This alternate evaluates the results of the Commission's current "low-cost/no-cost" mitigation policy and the needs for modification.
(Comr Peevey)

69 A00-08-022 - Pacific Gas & Electric Company (PG&E).

[3724] This decision grants prospective authority under Section 851 of Pub. Util. Code for the lease agreement between PG&E and Crockett Generation. PG&E's request for retroactive authority is denied. This proceeding is closed.

(Comr Lynch - ALJ Kenney)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

70 A01-07-031 - Pacific Gas & Electric Company (PG&E).

[3732] A01-06-043 - Related matters. This decision approves a proposal for resolving these order-to-show-cause (OSC) proceedings set forth in PG&E's February 13, 2004 motion. Under the proposal, the Commission would close these dockets and PG&E would pay the Commission \$55,000. The decision concludes that in light of the changes PG&E has made since issuance of the OSCs to its internal procedures for reviewing requests for leases and other matters arising under Pub. Util. Code §851 and General Order 69-C, and the Commission's acceptance of a similar proposal in D02-04-018, PG&E's proposal should be adopted. These proceedings are closed.

(Comr Lynch - ALJ McKenzie)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

71 R04-01-025 - Order Instituting Rulemaking to establish policies and rules to ensure reliable, long-term supplies of natural gas to California.

[3743] This decision addresses the Phase I proposals of Southern California Gas Company, San Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southwest Gas Company. These proposals were filed in accordance with this Order Instituting Rulemaking and address interstate pipeline capacity contracts, liquefied natural gas access, and interstate pipeline access.

(Comr Kennedy, Comr Peevey - ALJ Fukutome, ALJ Wong)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

Regular Agenda - Energy Orders (continued)**72****A00-11-038 - Southern California Edison Company.**

[3745]

A00-11-056, A00-10-028 - Related matters. This decision adopts a cost allocation methodology that will be applied to the revenue requirement of the California Department of Water Resources for its power purchases in 2004 and beyond.

(Comr Brown, Comr Lynch - ALJ Allen)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

72a**ALTERNATE TO ITEM 3745**

[3746]

A00-11-056, A00-10-028 - Related matters. This alternate decision adopts the same allocation methodology as the Proposed Decision. Department of Water Resources' revenue requirement is the same in this alternate as in the Proposed Decision. The alternate decision departs from ALJ Allen's draft decision by describing the \$290 million in excess monies the Energy Division has identified DWR would overcollect given its current revenue requirement.

(Comr Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176953

72b**ALTERNATE TO ITEM 3745**

[3803]

A00-11-056, A00-10-028 - Related matters. This alternate bifurcates the allocation to the utilities of DWR's 2004 supplemental revenue requirement from the question of a permanent allocation of all DWR power charges. In this alternate, we continue the 2004 interim allocation, and will consider the permanent allocation of the DWR revenue requirement in a subsequent decision.

(Comr Peevey)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177785

Regular Agenda - Energy Resolutions and Written Reports**73**

[3544]

Res E-3866

Certification to the Securities and Exchange Commission (SEC) whether the California Public Utilities Commission has the resources and authority to safeguard the interests of California customers of PacifiCorp, an indirect utility subsidiary of ScottishPower plc, a holding company registered with the SEC under the Public Utility Holding Company Act of 1935, as amended (PUHCA or the Act), 15 U.S.C. §§79a, et seq.

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Agenda 3135, Item 28 6/9/2004 (Lynch);

Agenda 3136, Item 61 7/8/2004 (Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174068

73a

[3588]

ALTERNATE TO ITEM 3544

The Commission certifies to the Securities and Exchange Commission (SEC) that the California Public Utilities Commission has the resources and authority to safeguard the interests of California customers of PacifiCorp, an indirect utility subsidiary of ScottishPower plc, a holding company registered with the SEC under the Public Utility Holding Company Act of 1935, as amended (PUHCA or the Act), 15 U.S.C. §§79a, et seq. pursuant to the conditions imposed.

Agenda 3135, Item 28a 6/9/2004 (Lynch);

Agenda 3136, Item 61a 7/8/2004 (Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175425

74

[3646]

Res E-3875 - Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E).

PG&E, SCE, and SDG&E request approval of Agency Agreements with the California Department of Water Resources for the implementation of the California Consumer Power and Conservation Financing Authority Demand Reserves Partnership Program. (PG&E Advice Letter (AL) 2505-E, SCE AL 1720-E-A, and SDG&E AL 1512-E-A, filed May 10, 2004)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Agenda 3136, Item 65 7/8/2004 (Lynch)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175959

Regular Agenda - Energy Resolutions and Written Reports (continued)

- 75**
[3738] **Res E-3876 - Sacramento Municipal Utility District (SMUD).**
This resolution concludes that SMUD's proposal to annex and include in its sphere of influence the Sacramento Regional County Sanitation District's Lower Northwest Interceptor South River Pump Station, located within Pacific Gas and Electric Company's (PG&E's) service territory, will not substantially impair PG&E's ability to provide adequate service at reasonable rates within the remainder of its service territory.
Pub. Util. Code § 311 – This item was mailed for Public Comment.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=176915
- 76**
[3744] **Res E-3885 - Southern California Edison Company (SCE).**
SCE requests approval for establishing Cool Centers in its service territory during the summer of 2004 and recovery of Cool Center-related costs. Request granted as modified. (Advice Letter 1806-E, filed June 16, 2004)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
- 77**
[3796] **Res E-3884 - San Diego Gas & Electric Company (SDG&E).**
SDG&E requests Commission approval of a new renewable energy contract with a wind energy facility. (Advice Letter 1596-E, filed June 15, 2004)
- 78**
[3797] **Res E-3883 - San Diego Gas & Electric Company (SDG&E).**
SDG&E is requesting an extension of the online start date for a wind energy contract previously adopted under Resolution E-3803. (Advice Letter 1594-E, filed May 21, 2004)
- 79**
[3798] **Res E-3886 - San Diego Gas & Electric Company (SDG&E).**
SDG&E requests expedited approval to adopt proposed summer demand response reduction program. (Advice Letter 1597-E, filed July 12, 2004)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177709
- 80**
[3800] **Res E-3888 - Southern California Edison Company (SCE) and California Independent System Operator.**
SCE and the California Independent System Operator submit for filing the Local Area Reliability Unit Commitment and Dispatch Procedure developed pursuant to D04-07-028. (SCE Advice Letter 1813-E, filed July 26, 2004)

Regular Agenda - Telecommunication Orders

81

[2636]

R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.

I01-09-002 - Related matters. This proposed decision addresses Phase 2B audit issues. The proposed decision sustains most of the findings of an audit of Pacific's intrastate financial results for the period 1997-1999 that were considered during Phase 2B. Despite the audit adjustments, this decision, read in combination with the findings reached by the Commission in Phase 2A of this proceeding, does not increase Pacific's earnings to a level requiring it to make refunds to its ratepayers.

(Comr Kennedy - ALJ Thomas)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3123, Item 40 11/13/2003 (Staff);

Agenda 3125, Item 70 12/18/2003 (Staff);

Agenda 3126, Item 57 1/8/2004 (Kennedy);

Agenda 3129, Item 31 2/26/2004 (Wood);

Agenda 3131, Item 39 4/1/2004 (Staff);

Agenda 3134, Item 45 5/27/2004 (Staff);

Agenda 3135, Item 30 6/9/2004 (Kennedy);

Agenda 3136, Item 68 7/8/2004 (Peevey)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174066

81a

[2637]

ALTERNATE TO ITEM 2636

I01-09-002 - Related matters. This alternate proposed decision resolves Phase 2B audit issues. The alternate proposed decision sustains the analysis in the audit conducted by Overland on 51 of 68 issues, and reverses its findings on 17. The alternate proposed decision accepts Pacific's claim of lawyer-client confidentiality concerning certain information, but prohibits the booking of contingent liability accruals that rely on this information. The alternate resolves ambiguities in the Commission's process for resolving discovery disputes. Consistent with D01-06-077, the alternate orders Pacific to pay interest on the amounts due to customers at the 90-day commercial paper rate.

(Comr Kennedy)

Agenda 3123, Item 40a 11/13/2003 (Staff);

Agenda 3125, Item 70a 12/18/2003 (Staff);

Agenda 3126, Item 57a 1/8/2004 (Kennedy);

Agenda 3129, Item 31a 2/26/2004 (Wood);

Agenda 3131, Item 39a 4/1/2004 (Staff);

Agenda 3134, Item 45a 5/27/2004 (Staff);

Agenda 3135, Item 30a 6/9/2004 (Kennedy);

Agenda 3136, Item 68a 7/8/2004 (Peevey)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=155051

Regular Agenda - Telecommunication Orders (continued)

82

[3199]

I02-06-003 - Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless and related entities (collectively Cingular) to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an early termination fee and other penalties from customers.

This modified decision finds that Cingular's corporate practice and policy from January 2000 to April 31, 2002 violated (1) Pub.Util.Code §451 and D95-04-028 because it allowed no trial of its wireless service and prohibited early termination of wireless service contracts unless the customer paid an early termination fee of \$150 or more, even though testing wireless service by using the phone is the best way for a customer to ascertain whether the service meets his or her needs, and (2) violated §§451, 702 and 2896 and D95-04-028 because it failed to disclose known network problems during 2001 and, in spite of these problems, continued to prohibit refunds/returns and require early termination fees for early cancellation of wireless service contracts. Decision orders a penalty of \$12,140,000 and requires reparations to customers. This modified decision addresses the issues raised by the Commission's Consumer Protection and Safety Division, Utility Consumers Action Network, and Cingular in their appeals to the Presiding Officer's Decision filed October 9, 2003. This proceeding is closed.

(Comr Wood - ALJ Vieth)

Pub. Util. Code § 1701.2(c), allows this modified Presiding Officer's Decision to be considered in Closed Session.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.

Agenda 3128, Item 48 2/11/2004 (Kennedy);

Agenda 3131, Item 45 4/1/2004 (Kennedy);

Agenda 3133, Item 50 5/6/2004 (Staff);

Agenda 3134, Item 47 5/27/2004 (Peevey);

Agenda 3136, Item 69 7/8/2004 (Peevey)

82a

[3815]

ALTERNATE TO ITEM 3199

PROPOSED ORDER OF COMMISSIONER KENNEDY DIFFERENT FROM PRESIDING OFFICER'S DECISION - This decision finds that Cingular Wireless committed one violation of Section 451 of the Public Utilities Code by unreasonably including a substantial early termination fee in its long-term contracts without including a grace period in which a customer could try out a new cellular telephone. The decision orders Cingular to refund early termination fees to (1) all customers who paid such fees within 14 days of entering a contract in the period from January 1, 2000 to May 1, 2002 and (b) all customers who paid such fees during the period February 1, 2001 through April 30, 2001. The decision also fines Cingular \$890,000, equal to \$10,000 per day for each day from February 1, 2001 through April 30, 2001, a period in which Cingular knowingly failed to disclose serious network problems and continued to aggressively market its services. This decision is final. (Comr Kennedy)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177920

Regular Agenda - Telecommunication Orders (continued)

83

[3523]

A01-02-024 - AT&T Communications of California, Inc. and WorldCom, Inc.

A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This decision adopts revised monthly recurring unbundled network element (UNE) rates for several UNEs that Pacific Bell Telephone Company dba SBC-California sells to competitive local exchange carriers. The UNEs for which revised monthly recurring rates are adopted are loops (including 2-wire, DS-1 and DS-3), switching, dedicated transport, signaling system 7 (SS7) links, and the DS-3 entrance facility without equipment. The rates in today's order replace interim rates for loops and switching that were set in D02-05-042 and replace rates for other UNEs originally adopted in D99-11-050. This order adopts a statewide average 2-wire loop rate of \$12.92 and a flat rate for switching usage of \$2.64 per port. These rates result in a UNE-Platform rate of \$16.90 per month. The Commission sets these rates based on the average of the results of the models proposed by SBC-CA and the HAI Model, Version 5.3, proposed by AT&T Communications of California and WorldCom, Inc. An average of the two competing models is used based on the finding that both models are flawed. These proceedings are closed.

(Comr Wood - ALJ Duda)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

This matter may be considered during the Ratesetting Deliberative Meeting.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3135, Item 33 6/9/2004 (Peevey);

Agenda 3136, Item 70 7/8/2004 (Staff)

83a

[3524]

ALTERNATE TO ITEM 3523

A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This alternate decision adopts revised monthly recurring unbundled network element (UNE) rates for several UNEs that Pacific Bell Telephone Company dba SBC-California sells to competitive local exchange carriers. The alternate adopts a statewide average 2-wire loop rate of \$13.26 and a flat rate for switching usage of \$2.77 per port. These rates result in a UNE-Platform rate of \$17.38 per month. The rates are based on the average of the results of the models proposed by SBC-CA and the HAI Model, Version 5.3, proposed by AT&T Communications of California and WorldCom Inc. An average of the two competing models is used based on the finding that both models are flawed. This alternate incorporates inflation factors into the SBC-CA model and it assumes the use of 60% Integrated Digital Loop Carrier equipment as a modeling input.

(Comr Wood)

Agenda 3135, Item 33a 6/9/2004 (Peevey);

Agenda 3136, Item 70a 7/8/2004 (Staff)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=172182

Regular Agenda - Telecommunication Orders (continued)

84

[3652]

R03-08-018 - Order Instituting Rulemaking to review policies concerning intrastate carrier access charges.

This order resolves several policy questions with regard to intrastate access charges, their levels and impact on California long distance markets. The Commission opened this rulemaking in response to the petition of AT&T Communications of California, Inc. (AT&T). The term "access charges" refers to charges imposed by local exchange carriers (LECs) such as Pacific Bell Telephone Company on interexchange carriers (IEC) such as AT&T for using the LEC's local exchange network.

Interexchange carriers use this switched access to originate and terminate long distance calls to the vast majority of California residential and business customers.

(Comr Peevey - ALJ Malcolm)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Regular Agenda - Water/Sewer Orders

- 85**
[3683] **A02-11-057 - Point Arena Water Works, Inc.**
This decision approves the rate case stipulation and decides the one remaining issue. This proceeding is closed.
(Comr Wood - ALJ Bushey)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
Agenda 3136, Item 42 7/8/2004 (Lynch)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175036
- 85a**
[3811] **ALTERNATE TO ITEM 3683**
This alternate decision finds that the statute of limitations was tolled and that customers are entitled to refunds for the entire overcharge period.
(Comr Lynch)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=177899
- 86**
[3730] **A03-10-057 - Southern California Water Company.**
This decision approves Stipulation between the utility and the Commission's Office of Ratepayer Advocates that proposes a small rate increase in 2004 for three Region 1 customer service areas (Arden-Cordova, Bay Point, and Ojai) following a "mini" general rate case review; permits requests, by advice letter, to amortize 2004 supply expenses for the other Region 1 customer service areas; addresses issues stemming from changes in the wholesale water supply costs in the Simi Valley customer service area; and defers issues concerning amortization of litigation costs attributable to the Arden-Cordova contamination litigation to Phase 2 of this proceeding.
(Comr Peevey - ALJ Vieth)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
- 87**
[3733] **A03-10-006 - Southern California Water Company (SCWC).**
This decision approves a comprehensive settlement agreement entered into by SCWC and the Commission's Office of Ratepayer Advocates that resolves all issues in SCWC's general rate case application for Region II, its Metropolitan District. The impact of the settlement on the average monthly bill for potable water (ME-1 tariff) is approximately \$2.12 in 2004, \$3.31 in 2005 and \$3.62 in 2006. Among other things, SCWC will implement a six-year phase-in of increases in the rate for recycled water (ME-3 tariff) to return it to 70% of the potable water rate by 2009.
(Comr Wood - ALJ Vieth)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Regular Agenda - Water/Sewer Orders (continued)

88**A03-05-035 - San Jose Water Company (SJWC).**

[3734]

This decision adopts the SJWC and Office of Ratepayer Advocates settlement and grants SJWC authority to increase rates by \$11,773,000 for 2004; \$4,283,000 for 2005; and \$4,245,000 for 2006. It does not adopt additional funding for water main relocation projects as requested by the Santa Clara Valley Transportation Authority. This proceeding is closed.

(Comr Lynch - ALJ Fukutome)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Regular Agenda - Water/Sewer Resolutions and Reports**89**

[3600]

Res W-4477 - California Water Service Company (CWSC).

CWSC - Bakersfield, Bear Gulch, Chico, Dixon, Dominguez-South Bay, East Los Angeles, Hermosa-Redondo, King City, Livermore, Los Altos, Marysville, Mid-Peninsula, Salinas, Selma, South San Francisco, Stockton, Palos Verdes, Westlake, Willows, Visalia Districts - Resolution recording status of reserve account recovery filings and results of earnings tests. (Advice Letter (AL) 1622 and AL 1624, filed March 25, 2004, and AL 1642, AL 1643, AL 1647, AL 1648, AL 1649, and AL 1650, filed April 1, 2004)

Agenda 3135, Item 17 6/9/2004 (Staff);

Agenda 3136, Item 9 7/8/2004 (Staff)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175348

Regular Agenda - Other Utility Orders**90 R03-08-019 - Order Instituting Rulemaking on the Commission's own motion to amend
[3641] General Order 77-K.**

This decision adopts General Order (GO) 77-L. GO 77-L supersedes GO 77-K with revised rules for filing utility employee compensation data. The joint petition of Pacific Gas and Electric Company and the Greenlining Institute/Latino Issues Forum to modify the rulemaking is granted to the extent of expanding the scope of the rulemaking, as described in the order.

(Comr Wood - ALJ Koss)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

Agenda 3136, Item 71 7/8/2004 (Staff)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174149

**91 R_____ - Order Instituting Rulemaking on the Commission's own motion for the
[3812] purpose of considering policies and guidelines regarding the allocation of gains from sales of
 energy, telecommunications and water utility assets.**

This order initiates an Order Instituting Rulemaking on the Commission's own motion to consider policies and guidelines regarding the allocation of the gains from sales of utility assets. The primary purpose of this proceeding is to set forth clear rules regarding who – the utility's investors or the ratepayers – receives the capital gains realized upon the disposition of utility property. The Commission will consider in this Rulemaking assets sold by electric and gas utilities, certain telecommunications carriers, and water utilities.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

Regular Agenda - Other Utility Resolutions and Reports**92****Res ALJ 184**

[3354]

This resolution adopts an annual process for setting and updating hourly rates for use by intervenors in seeking compensation for substantially contributing to a Commission decision, as provided in the statutory intervenor funding program. The hourly rates that the Commission establishes through this process will govern intervenors and their representatives who have recently participated in Commission proceedings, and will provide guidance to other intervenors and representatives.

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Agenda 3132, Item 61 4/22/2004 (Staff);

Agenda 3133, Item 61 5/6/2004 (Wood);

Agenda 3134, Item 58 5/27/2004 (Wood);

Agenda 3135, Item 42 6/9/2004 (Peevey);

Agenda 3136, Item 78 7/8/2004 (Brown)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175482

Regular Agenda - Legislative Matters

93

AB 1647 (Horton)

[3704]

Public water systems: mutual water companies: grant funds.

Agenda 3136, Item 81 7/8/2004

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=175983

94

SB 909 (Machado)

[3612]

Public water systems: mutual water companies: grant funds.

Agenda 3135, Item 57 6/9/2004 (Staff);

Agenda 3136, Item 86 7/8/2004 (Staff)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=174204

Regular Agenda - Commissioner's Reports

95

[3659]

President Peevey Report

Discussion of and action on the Electric Retail Market Reform Policy Statement, proposed by a subcommittee of the Energy Resources Conservation and Development Commission, the Consumer Power and Conservation Financing Authority, and the PUC. The Policy Statement articulates the basic framework of a core/noncore retail electric market structure that the three agencies can support before the Legislative and Executive Branches.

Agenda 3136, Item 90 7/8/2004 (Peevey)

Regular Agenda - Management Reports and Resolutions

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the disclosures required by Government Code Sections 11125.2 and 11126.3(f).

Closed Session - Non-Federal

96 Conference with Legal Counsel - Applications for Rehearing

[3575]

Compilation of applications for rehearing recently filed with the Commission.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.

97 C98-04-004 - Conference with Legal Counsel - Application for Rehearing

[3601]

C98-06-003; C98-06-027; C98-06-049; I90-02-047 - Related matters. Disposition of Applications for Rehearing of D03-11-021 filed by The Latino Issues Forum (LIF), The Utility Reform Network, and SBC California. On November 13, 2003, the Commission issued D03-11-021, awarding intervenor compensation to The Greenlining Institute and LIF for its contribution to D01-09-058.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.
 Agenda 3136, Item 97 7/8/2004 (Staff)

98 A02-12-027 - Conference with Legal Counsel - Application for Rehearing

[3606]

A02-12-028, I03-03-016 - Related matters. Disposition of the application for rehearing of D03-12-058 filed by Southern California Edison Company (SCE). D03-12-058 found Local 483 Utility Workers Union of America eligible for intervenor compensation under Chapter 9, Article 5, Section 1801, et seq., of the Public Utilities Code.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.
 Agenda 3135, Item 66 6/9/2004 (Staff);
 Agenda 3136, Item 98 7/8/2004 (Wood)

Closed Session - Non-Federal (continued)

- 99**
[3684] **R01-08-028 - Conference with Legal Counsel - Application for Rehearing**
Disposition of Applications for Rehearing of Decision D03-12-060 filed by Women's Energy Matters (WEM), Residential Energy Service Companies' United Effort (RESCUE), and joint application of Consortium for Energy Efficiency, Inc. et al. R01-08-028 examines the Commission's future energy efficiency policies, administration and programs. D03-12-060 is an interim opinion adopting funding for the 2004-2005 energy efficiency programs and studies. D03-12-060 was modified in part by D04-02-059.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.
Gov. Code § 11126.3(d), allows this item to be considered in Closed Session.
Agenda 3136, Item 102 7/8/2004 (Staff)
- 100**
[3695] **R03-09-006 - Conference with Legal Counsel - Application for Rehearing**
Disposition of Application of AT&T Wireless Services of California, LLC, Pacific Bell Wireless, LLC dba Cingular Wireless, Nextel of California, Inc., Sprint Spectrum S.P. d/b/a Sprint, Omnipoint Communications, Inc. dba T-Mobile, and Verizon Wireless apply for rehearing of D04-04-038. D04-04-038 resolves petitions to excuse utilities from the list of Respondents to a Rulemaking to consider rules governing utility construction contract process.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.
Agenda 3136, Item 103 7/8/2004 (Staff)
- 101**
[3769] **R00-02-004 - Conference with Legal Counsel - Application for Rehearing**
Disposes of the motions for stay and/or applications for rehearing of Decision D04-05-057, which adopts General Order G.O. 168, Rules Governing Telecommunications Consumer Protection. Four applications for rehearing were filed by Nextel California, Inc (Nextel), AT&T Wireless et al.(Joint Carriers), and the Wireline Group. The Wireline Group filed two applications, one solely concerning issues of timing and implementation, and one on substantive legal issues. Rehearing applicants allege that the provisions and the adoption of G.O. 168 are preempted, unconstitutional, and in violation of state law. Applicants also assert that the time allowed for implementation is impracticable and not supported by the record. Nextel, Joint Carriers, and the Wireline Group also each filed motions to stay D04-05-057.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.
- 102**
[3784] **A04-06-007 - Conference with Legal Counsel - Application for Rehearing**
Disposition of Application of Midway Heights County Water District for rehearing of Commission Resolution W-4473 that granted the Weimar Water Company a general rate increase of 63% in 2004.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.

Closed Session - Non-Federal (continued)

103

A03-08-014 - Conference with Legal Counsel – Application for Rehearing

[3794]

Disposition of the applications for rehearing of D04-01-051 filed by Santa Clarita Organization for Planning the Environment and Sierra Club jointly with Friends of the Santa Clara River. D04-01-051 conditionally approved indirect control of Valencia Water Company from Newhall Land and Farming Company to Lennar Corporation and LNR Property Corporation.

Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.

Closed Session - Initiation of Litigation - Non-Federal

Consideration of possible Commission initiation of, or intervention in, litigation.

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

104

[3722]

Conference with Legal Counsel - Initiation of Enforcement Proceeding

Deliberation on institution of proceeding on disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced.)

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

Gov. Code § 11126(d)(2), allows this item to be considered in Closed Session.

105

[3752]

Conference with Legal Counsel - Initiation of Enforcement Proceeding

Deliberation on institution of proceeding on disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced.)

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

Gov. Code § 11126(d)(2), allows this item to be considered in Closed Session.

106

[3779]

Conference with Legal Counsel - Initiation of Enforcement Proceeding

Deliberation on institution of proceeding on disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced.)

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

Gov. Code § 11126(d)(2), allows this item to be considered in Closed Session.

107

[3808]

Conference With Legal Counsel - Initiation of Enforcement Proceeding

Deliberation on institution of proceeding on disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced.)

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

Gov. Code § 11126(d)(2), allows this item to be considered in Closed Session.

Closed Session - Threatened Litigation - Non-Federal

Significant exposure to litigation

Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session

Closed Session - Personnel Matters

Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.

Gov. Code § 11126(a), allows this item to be considered in Closed Session

Closed Session - Threatened Litigation - Federal

Significant exposure to litigation in federal agency or court proceedings.

Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session

Closed Session - Initiation of Litigation - Federal

Consideration of possible Commission initiation of, or intervention in, federal agency or court proceedings.

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

Closed Session - Federal**108**

[3576]

Case Nos. C 04-00580 VRW (Bankruptcy Case No. 01 30923 DM) - Conference with Legal Counsel - Existing Litigation

Loretta Lynch vs. California Public Utilities Commission, Pacific Gas and Electric Company (Debtor), U.S. District Court for the Northern District of California, Case No. C 04-00580 VRW; Pacific Gas and Electric Company (Debtor), United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 01 30923 DM.

Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.

Closed Session - FERC Docket No. EL00-95-000

Conference with Legal Counsel - Existing Litigation; San Diego Gas & Electric Co., EL00-95-000

Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.